

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

JOHN O. COPELTON,

Plaintiff,

vs.

CORRECTIONAL CORPORATION
OF AMERICA, et. al.,

Defendants.

Cause No. CV 09-00019-GF-SEH-RKS

FINDINGS AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE TO
DENY MOTION FOR PRELIMINARY
INJUNCTION

Plaintiff John O. Copelton, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to [42 U.S.C. § 1983](#). The Court has federal question jurisdiction pursuant to [28 U.S.C. § 1331](#).

Plaintiff's Complaint alleges Defendants violated his Eighth Amendment right to adequate medical care by not providing his prescribed diabetic diet at Crossroads Correctional Center. On September 24, 2009, Plaintiff filed a Motion for Preliminary Injunction seeking to require Defendants to provide him with a

proper diabetic diet and/or move Plaintiff back to the custody of Montana State Prison. By Order dated October 21, 2009, the Court directed the service of Plaintiff's Complaint and required Defendants to file a response to Plaintiff's Motion for Preliminary Injunction at the time of filing their Answer or other responsive pleading.

On December 15, 2009, Plaintiff filed a Notice of Change of Address indicating he had been moved from Crossroads Correctional Center to the Montana State Prison. When an inmate seeks injunctive or declaratory relief concerning the prison where he is incarcerated, his claims for such relief become moot when he is no longer subjected to those conditions. [Dilley v. Gunn, 64 F.3d 1365, 1368 \(9th Cir. 1995\)](#); [Johnson v. Moore, 948 F.2d 517, 519 \(9th Cir. 1991\)](#). As Plaintiff is no longer incarcerated at Crossroads Correctional Center, his Motion for Injunction is moot.

Accordingly, the Court issues the following:

RECOMMENDATION

Plaintiff's Motion for Preliminary Injunction (Court's Doc. 9) should be **DENIED AS MOOT.**

The Clerk of Court is directed to mail a copy of this Findings and

Recommendation to: Sean Mahoney, CFO, 103 Farrar Farm Road, Norwell, Massachusetts 02061 and Chad E. Adams, Browning Kaleczyc Berry & Hoven, P.O. Box 1697, Helena, MT 59624-1697.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to [28 U.S.C. § 636\(b\)\(1\)](#), Plaintiff may serve and file written objections to these Findings and Recommendations within fourteen (14) days of the date entered as indicated on the Notice of Electronic Filing. Any such filing should be captioned "Objections to Magistrate Judge's Findings and Recommendations."

A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge and may waive the right to appeal the District Court's order. [Martinez v. Ylst, 951 F.2d 1153 \(9th Cir. 1991\)](#).

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to [Fed.R.App.P.](#)

4(a)(1), should not be filed until entry of the District Court's final judgment.

DATED this 15th day of December, 2009.

/s/ Keith Strong

Keith Strong

United States Magistrate Judge